



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION VIII**

**999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>**

**August 21, 2006**

8ENF-L

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Robert Anselmi  
Chief, Environment of Care Standards  
Cheyenne Veterans Affairs Medical Center  
2360 East Pershing Boulevard  
Cheyenne, WY 82001

Re: Compliance Order, Docket No. **CAA-08-2006-0006**

Dear Mr. Anselmi:

Enclosed is a Compliance Order (Order), that the United States Environmental Protection Agency, Region 8 (EPA) is issuing to the Cheyenne Veterans Affairs Medical Center (CVAMC) under the authority of section 113(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3)(B). In the Order, EPA finds you in violation of section 608 of the CAA, 42 U.S.C. § 7671g, and regulations set forth in 40 C.F.R. Part 82, Subpart F, pertaining to your chillers (non-industrial process refrigeration appliances).

The Order requires that CVAMC immediately comply with all the requirements of section 608 of the CAA, 42 U.S.C. §§ 7671g, and 40 C.F.R. Part 82.

Failure to comply with the requirements of the Order is a violation of the Order. Please also be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings for the violations cited in the Order or for any other violations that CVAMC may have committed prior to or may commit after the issuance of the enclosed Order.

In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), the Order will not take effect until CVAMC has had an opportunity to confer with EPA concerning the findings set forth in the Order. As stated in the Order, the request for such a conference must be made no later than thirty (30) calendar days from the date you receive the Order. A request for a conference must follow the procedures set forth in the Order.



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Please review the Order carefully. If you have any questions, the most knowledgeable persons on my staff are Deldi Reyes, Environmental Scientist, (for technical issues) who can be reached at (303) 312-6055, and David Rochlin, Enforcement Attorney, (for legal issues) who can be reached at (303) 312-6892.

Sincerely,

**SIGNED**

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure:  
Compliance Order

cc: Bob Gill, WY DEQ  
Glenn Spangler, WY DEQ



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**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

**IN THE MATTER OF:**

**ORDER (42 U.S.C. § 113(a)(3)(B))**

**Cheyenne Veterans Affairs Medical  
Center  
2360 East Pershing Boulevard  
Cheyenne, WY 82001**

**Docket No.: CAA-08-2006-0006**

**Respondent**

**CLEAN AIR ACT COMPLIANCE**

The United States Environmental Protection Agency (“EPA”) is issuing this Compliance Order (“Order”) in response to violations of the “Stratospheric Ozone Protection” requirements of Subchapter VI of the Clean Air Act (“CAA”), 42 U.S.C. § 7671 et seq., and the Industrial Refrigerant Recycling and Emissions Reductions regulations codified in 40 C.F.R. Part 82.

**STATUTORY AUTHORITY**

Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of the EPA to issue this Order. This authority has been duly delegated to the Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, U.S. EPA, Region 8.

**FINDINGS**



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1. Unless otherwise noted, all Findings set forth in this Order have applied at all times relevant to this action.
2. The Respondent is the Cheyenne Veterans Affairs Medical Center (CVAMC). CVAMC is a medical center under the Veterans Health Administration, which is part of the federal Department of Veterans Affairs.
3. CVAMC provides primary and secondary inpatient services in medicine and surgery as well as outpatient services in medicine, surgery and psychiatry. CVAMC has a 21-hospital bed level and operates a 50-bed Nursing Home Care Unit. CVAMC's main hospital building is located at 2360 East Pershing Boulevard, Cheyenne, Wyoming, 82001. Unless otherwise noted, any references in this order to the Respondent's facility shall be to the one whose address is given above.
4. The Respondent is, and at all times relevant to this order has been, the "owner or operator" of the CVAMC within the meaning of 40 C.F.R. Part 82, Subpart F.
5. The Respondent is a "person" as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e) and 40 C.F.R. § 82.152.

### **STATUTORY AND REGULATORY BACKGROUND**

6. Subchapter VI of the CAA, 42 U.S.C. §§ 7671-7671q ("Stratospheric Ozone Protection"), implements the Montreal Protocol on Substances that Deplete the Ozone Layer, and mandates the elimination or control of emissions of substances which are known or are suspected to cause or significantly contribute to harmful effects on the stratospheric ozone layers, referred to as Class I and Class II substances. Section 608 of Subchapter VI, 42 U.S.C. § 7671g (National Recycling and Emission Reduction Program"), requires that EPA promulgate regulations establishing standards and requirements regarding the use and disposal of Class I and Class II ozone-depleting substances during the service, repair, or disposal of appliances and industrial process refrigeration. EPA originally promulgated the regulations required by Section 608, codified at 40 C.F.R Part 82,



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Subpart F §§ 82.150 – 82.166 (“Recycling and Emissions Reduction”) (“Subpart F Regulations”), on May 14, 1993, 58 Fed. Reg. 28712.

7. The Subpart F regulations contain leak repair requirements for industrial and non-industrial process equipment containing more than fifty (50) pounds of refrigerant. These regulations are aimed at reducing emissions of Class I and Class II ozone-depleting substances in the atmosphere “to the lowest achievable level during the service, maintenance, repair and disposal of appliances.” 40 C.F.R. § 82.150(a). The Subpart F regulations provide distinct requirements for Industrial Process Refrigeration Appliances and Non-Industrial Process Refrigeration Appliances. See 40 C.F.R. § 82.156.
8. CVMAC operates three non-Industrial Process Refrigeration Appliances (chillers) using R-22, a Class II substance. The chillers are considered “Appliances” within the meaning of Section 601(1) of the CAA, 42 U.S.C. § 7671(1), and 40 C.F.R. § 82.152, which defines appliances as “any device which contains and uses a refrigerant and which is used for household or commercial purposes, including any air conditioner, chiller or freezer.” At all times relevant to this Order, the Respondent employed Class II substances (“refrigerant”) in the three chillers at its facility.
9. At all times relevant to this Order, the full charge of refrigerant required for each of the three affected chillers at the Respondent’s facility has been more than fifty (50) pounds. Pursuant to 40 C.F.R. § 82.156(i)(5), a facility with non-Industrial Process Refrigeration Appliances containing more than fifty (50) pounds of refrigerant must keep the leak rate of each appliance below 15% on an annualized basis. If the annualized leak rate from a non Industrial Process Refrigeration Appliance exceeds 15%, the facility must repair the appliance within thirty (30) days unless one or more of the conditions at 40 C.F.R. § 82.156(i)(6), (i)(8) and (i)(10) and (i)(5)(i) through (i)(5)(iii) apply.
10. Pursuant to 40 C.F.R. § 82.152, a leak rate is defined as the rate at which an appliance is losing refrigerant, measured between refrigerant charges. The leak rate is expressed in terms of the appliance’s full charge that would be lost over a 12-month period if the current rate of loss were to continue over that period.



11. Pursuant to 40 C.F.R. § 82.156(i)(5)(i), if the owners / operators of federally-owned comfort cooling appliances determine that the leak(s) cannot be repaired within a 30-day period, they must document all repair efforts and notify EPA of their inability to comply within the 30-day repair requirement, and the reason for the inability must be submitted to EPA. Such notification must be made within 30 days of discovering that leak repair efforts cannot be completed within 30 days.
12. Pursuant to 40 C.F.R. § 82.166(k), the owner/operator of appliances containing more than fifty (50) pounds of refrigerant must maintain records detailing the date and type of service, as well as the amount of refrigerant added to the equipment. The owner/operator must keep records of refrigerant purchased and added to such appliances in cases where owners add their own refrigerant, including the date(s) when refrigerant is added. Pursuant to 40 C.F.R. § 82.166(m), all records required to be maintained pursuant to 40 C.F.R. § 82.166, must be kept for a minimum of three years.

### **FINDINGS OF VIOLATION**

13. On September 29, 2005, EPA inspector Cindy Beeler, accompanied by Wyoming Department of Environmental Quality Inspector Glenn Spangler, conducted an inspection of CVAMC.
14. During the inspection, Ms. Beeler discovered that required records for the chillers were inadequate. Tags are maintained by CVAMC on the refrigerant waste drum, refrigerant recovery unit and R-22 tank, but records do not include the date and type of service of each chiller, as required by 40 C.F.R. § 82.166(k). Although the records indicate a number related to how much refrigerant is added, in many cases there are no associated units, making it impossible to determine with certainty how much refrigerant was added to a particular chiller. In addition, there was no corresponding documentation on the R-22 refrigerant tank label indicating the amount and dates refrigerant was drawn down.



15. A review of service tags was conducted during the course of the inspection, which identified that on September 7, 1995, a total of 40 pounds was added to Chiller #1, which has two independent circuits, each capable of a full charge capacity of 115 pounds. No record of a leak rate calculation was available. EPA Inspector Cindy Beeler calculated a leak rate of 35% based on the information on the service tag. Because the leak rate was greater than 15%, CVAMC should have attempted to repair the leak within 30 days to achieve a leak rate below the 15% annualized threshold, as required by 40 C.F.R. §82.156(i)(5). No evidence or documentation that CVMAC attempted to repair the leak was found during the inspection.

### **ORDER**

16. Based upon the foregoing FINDINGS, and pursuant to the authority vested in the Administrator of the EPA by section 113(a)(3)(B) of the CAA, 42 U.S.C. §7413 (a)(3)(B), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ORDERED:
17. Effective immediately, CVAMC shall maintain all records required by 40 C.F.R. §82.166(k) and (m) and calculate and document annualized leak rates for all affected appliances as required by 40 C.F.R. §82.156(i)(5).
18. No later than thirty days after the effective date of this Order, CVAMC shall file certifications with the EPA that (1) the Respondent is keeping all required records, (2) the Respondent is calculating and documenting annualized leak rates for all affected appliances and that (3) the Respondent is repairing all leaks resulting in an exceedance of the annualized leak rate threshold of 15%. The Respondent shall send these certifications to:

Deldi Reyes, ENF-AT  
US EPA Region 8  
999 18<sup>th</sup> St., Suite 300  
Denver, CO 80202-2466



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19. Effective immediately, CVAMC shall comply with all the requirements of Section 608 of the CAA, 42 U.S.C. §§ 7671g, and 40 C.F.R. Part 82, Subpart F.

### **ENFORCEMENT**

20. Issuance of this Order does not preclude any other action by EPA concerning the violations that are the subject of this Order, or any other past or future violations of the CAA by the Respondent, under any provision of law including, but not limited to, an administrative penalty complaint pursuant to section 113(d) of the CAA, 42 U.S.C. §7413(d), for penalties of not more than \$32,500 per day for each violation.

### **OPPORTUNITY FOR CONFERENCE**

21. In accordance with section 113(a)(4) of the CAA, 42 U.S.C. §7413(a)(4), EPA hereby offers the Respondent an opportunity for a conference to discuss the Order. The request for such a conference must be made no later than thirty (30) calendar days from the date the Respondent receives this Order. If you wish to make arrangements for a conference, please contact:

David Rochlin Senior Enforcement Attorney U.S. EPA 8, 999 18th Street, Suite 300 Denver, CO  
80202-2466 Telephone: (303) 312-6892

22. By offering the opportunity for a conference or participating in one, EPA does not waive or limit its right to any remedy available under the CAA.



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**EFFECTIVE DATE**

23. This Order shall become effective thirty (30) calendar days after the Respondent's receipt of the Order, unless the Respondent requests an opportunity to confer with EPA, in which case the Order shall become effective on the third business day after the conference, unless EPA issues a modification to the Order.

Date: 8/18/2006

By: SIGNED

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice



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**CERTIFICATE OF SERVICE**

I certify that on the date noted below, I sent by certified mail, return receipt requested, a copy of the foregoing Compliance Order to:

Robert Anselmi  
Chief, Environment of Care Standards  
Cheyenne Veterans Affairs Medical Center  
2360 East Pershing Boulevard  
Cheyenne, WY 82001

Certified Return Receipt No: 7005 0390 0000 4847 7684

Date: August 21, 2006 By: SIGNED  
Judith M. McTernan

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE  
ON AUGUST 21, 2006.**

